

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BARBARA LENSING,

Plaintiff,

v.

JOHN E. POTTER, Postmaster
General of the United States Postal
Service,

Defendant.

Case No. 1:03-CV-575

Hon. Richard Alan Enslen

ORDER

This matter is before the Court on Plaintiff Barbara Lensing and Defendant John E. Potter's Joint Motion for Reconsideration of the Court's June 26, 2006 Order, which required the parties to submit appropriate dismissal papers within 14 days or this case would be dismissed without prejudice. For the reasons set forth below, the Court will grant the parties' Motion.

On March 22, 2005, the parties agreed to settle this action by written agreement ("Agreement")—which was filed with the Court—and the Court ordered that appropriate dismissal papers be filed not later than June 20, 2005. The parties' Agreement embodied several provisions that were contingent upon Plaintiff receiving the approval of the United States Office of Personnel Management ("OPM") of her application for disability retirement benefits under the civil service retirement system. On June 17, 2005, the parties reported that because Plaintiff had traveled out of the area to care for her mother and medical personnel were unresponsive to Plaintiff's document requests, Plaintiff had yet to apply for disability retirement benefits. Accordingly, the Court granted the parties an extension to file appropriate dismissal papers not later than September 20, 2005.

Plaintiff submitted her disability retirement application on August 1, 2005, and expected that the OPM could take as long as eight weeks to review it. Thus, on September 20, 2005, the parties requested another extension, which the Court granted extending their dismissal paper deadline to March 19, 2006.

In October 2005, the OPM requested Plaintiff supplement her disability retirement application with further medical documentation. On January 12, 2006, the OPM denied Plaintiff's application. Plaintiff requested the OPM reconsider that decision and, while her request for reconsideration was pending (and one day after the existing dismissal paper deadline had expired), the parties asked this Court to once again extend their dismissal paper deadline to June 17, 2006. The Court granted the parties' request.

The OPM denied Plaintiff's petition for reconsideration on May 22, 2006. Plaintiff has appealed that decision to an administrative law judge. The parties advise Plaintiff's OPM appeal remains pending; however, the parties neither filed dismissal papers nor an extension on or before June 17, 2006. Consequently, on June 26, 2006, the Court ordered that dismissal papers be filed or this action would be dismissed without prejudice. The parties now seek to reconsider that Order.

Upon careful consideration of the equities present, the Court will grant the parties' Motion. Furthermore, rather than provide the parties with a new dismissal paper deadline, the Court finds it prudent and judicious to stay this matter until Plaintiff exhausts her administrative remedies concerning her disability retirement benefits application.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Barbara Lensing and Defendant John E. Potter's Joint Motion for Reconsideration (Dkt. No. 86) is **GRANTED**.

IT IS FURTHER ORDERED that the Court's June 26, 2006 Order (Dkt. No. 85) is **VACATED**.

IT IS FURTHER ORDERED that this case is **STAYED** until Plaintiff Barbara Lensing exhausts her administrative remedies within the Office of Personnel Management regarding her disability retirement benefits application under the civil service retirement system.

IT IS FURTHER ORDERED that the parties shall, under pain of dismissal and/or contempt, provide the Court with a jointly authored **REPORT** detailing the status of Plaintiff's disability retirement application every **120 DAYS** from the entry of this Order or upon final decision of the Office of Personnel Management. Said report shall be no longer than three pages, exclusive of exhibits and attachments, and may be filed under seal.

DATED in Kalamazoo, MI:
August 11, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE